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Citation: Katila, A. (2021). Unearthing Ambiguities: Post-Genocide Justice in Raoul Peck's "Sometimes in April" and the ICTR case Nahimana et al.. *International Journal of Transitional Justice*, 15(2), pp. 332-350. doi: 10.1093/ijtj/ijab008

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Unearthing Ambiguities: Post-Genocide Justice in Raoul Peck's *Sometimes in April* and the ICTR case *Nahimana et al.*

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ABSTRACT¹

This article examines Raoul Peck's portrayal of post-genocide justice in Rwanda in his film *Sometimes in April* (2005). The film, which depicts the 1994 genocide against the Tutsi and its aftermath a decade later, resonates with the ICTR case *Prosecutor v. Nahimana et al.* with its focus on hate speech as genocide. The shared questions connect the two distinct narrative forms that are part of the global social discourse on Rwanda, allowing them to be analysed side by side. Building upon close readings, this article asks: Who is guilty and what counts as a crime? What kind of impact do justice mechanisms have? Whose interests does the ICTR serve? Extending interdisciplinary research on Rwanda across law and cultural studies, I argue that analysing *Sometimes in April* helps unearth ambiguities within and surrounding the ICTR. Peck's film and the legal case together communicate a rounded understanding of post-genocide justice to outside audiences, as it is experienced or perceived from local and international perspectives.

KEYWORDS: Film, genocide, ICTR, justice, Rwanda

INTRODUCTION

In the opening scene of Raoul Peck's film *Sometimes in April* (2005), a class of Rwandan pupils watch a recording of President Bill Clinton's 1998 address to Rwanda.¹ The pupils are in Kigali and the year is 2004. The camera alternates between President Clinton on the classroom television and the students behind rows of desks. The pupils are learning about the 1994 genocide against the Tutsi in Rwanda, which most of them are too young to remember, from an outsider, the President of the United States. This portrayal of the young Rwandans and President Clinton captures the nature of the aftermath of the genocide: it is both local and international. Even though the pupils are invited to ask questions about the speech, President Clinton's representation of the genocide remains authoritative, which draws attention to the complicated relationship between the local and international

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1 Bill Clinton, *Remarks to the People of Rwanda* (Kigali: 25 March 1998), Miller Centre of Public Affairs, University of Virginia, <https://millercenter.org/the-presidency/presidential-speeches/march-25-1998-remarks-people-rwanda#dp-expandable-text> (accessed 20 January 2020).

narratives in the aftermath of the 1994 genocide. The classroom scene encapsulates the dynamic that Peck explores extensively in his representation of post-genocide justice and which underlies the International Criminal Tribunal for Rwanda (ICTR) where a bench of non-Rwandan judges assessed evidence provided by Rwandan eye-witnesses. To explore how the legal and creative narratives negotiate and communicate the experiences of post-genocide justice, this article sets Peck's film and the ICTR case of *Nahimana et al.* side by side.

Peck's film *Sometimes in April* shifts between the genocide in 1994 and its ongoing aftermath in 2004. The narrative present is broken by long flashbacks which recount different characters' parallel experiences of the genocide, during which over a million Tutsi as well as Twa and moderate Hutu who opposed Hutu Power politics were killed.² Filmed in Rwanda but produced for television distribution by US network Home Box Office (HBO), *Sometimes in April* presents a range of complex Rwandan experiences to the tens of millions of viewers.³ Peck's film also portrays legal professionals, Western politicians and media representatives, whose actions and ignorance the director criticizes strongly. Peck, who was born in Haiti but has lived in the Democratic Republic of Congo, Germany, France and the USA, has been profiled as a director concerned with colonial legacies, race and social inequality. These are prominent themes in *Sometimes in April* and in his other films, including *Lumumba* (2000) and *I Am Not Your Negro* (2016).

Sometimes in April largely focuses on Idris Elba's character Augustin and his new partner Martine played by Pamela Nomvete, depicting the characters' struggle to survive and to live for the future in post-genocide Rwanda. In the film, Augustin, who is a Hutu, works as a teacher but was previously an army officer. He lost his wife Jeanne, two sons, daughter Anne-Marie and friend Xavier in the genocide. The character of Augustin travels to Arusha to follow the ICTR proceedings against his brother Honoré, who stands accused of spreading anti-Tutsi hate speech as a radio presenter and DJ for Radio Télévision Libre des Mille Collines (RTLM). Whilst Augustin is away, Martine returns to a site of the massacre that she survived and later participates in *gacaca* community court proceedings. As Phil Clark describes this traditional Rwandan conflict resolution mechanism, *gacaca* 'gives respected individuals elected by the local population the duty of prosecuting cases' but excludes legal professionals 'from participating in any official capacity.'⁴ The film's focus on the post-genocide justice from the perspective of the early 2000s is unique within the body of genocide films by non-Rwandan directors, such as *Hotel Rwanda* (2004) by Terry George, *Shooting Dogs* (2005) by Michael Caton-Jones and *100 Days* (2001)

- 2 While death toll estimates are contested, the Rwandan government has arrived at this number. République du Rwanda, Ministère de l'Administration Locale, du Développement Communautaire et des Affaires Sociales, *Dénombrement des victimes du génocide: Rapport final (Version révisée)*, 2004, 21.
- 3 Although the available estimates of viewers are imprecise and dated, Mohamed Adhikari suggests that in March and April 2005 the film was seen by 35 million people, in addition to which the film has since been widely available through streaming services such as Amazon Prime and Netflix, and has benefitted from Idris Elba's risen fame. Mohamed Adhikari, 'Screening the Rwandan Genocide: *Hotel Rwanda* in Partial Comparison with *Sometimes in April*,' in *The Rwandan Genocide on Film: Critical Essays and Interviews*, ed. Matthew Edwards (Jefferson: McFarland & Company, 2018), 9–41, 34.
- 4 Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge: Cambridge University Press, 2010), 3.

by Nick Hughes, which similarly to *Sometimes in April* have a prominent presence in the Western cultural circulation but mainly depict the genocide in 1994. Although there are numerous creative responses that portray the aftermath of genocide, including documentaries, plays, memoirs and novels, their reach and thus potential impact on the Western public perception are moderate in comparison to these films produced for mass consumption.

In *Sometimes in April*, the characters' engagement with the ICTR and *gacaca* introduces these post-genocide justice mechanisms to the viewer.⁵ Examining Peck's film that stands out through its temporal focus and reach allows me to build upon previous research on art and transitional justice. Recently, scholarship in the 'Creative Approaches to Transitional Justice: Contributions of Arts and Culture' special issue edited by Cynthia Cohen outlines ways in which survivors and the families of victims can engage with transitional justice through an artistic medium.⁶ I suggest that examining commercial artworks by outsiders targeted at international Anglophone audiences can complement our understanding of the relationship between art and transitional justice, particularly, by identifying and analysing what ideas of transitional justice circulate within the global social discourse and how they are communicated.⁷ Scholarly attention on how post-genocide justice is portrayed outside transitional contexts is limited, and this article offers a case study on Rwanda through Peck's film.

In portraying Honoré's crime of incitement to genocide, Peck draws attention to the role of the media. As Alison Des Forges notes, partly due to the limited literacy rate and availability of print media, radio continued to be a significant medium of communication in Rwanda in the 1990s, broadcasting announcements about official appointments, government meetings and candidates admitted to secondary schools, in addition to notifications of funerals, and the president's daily messages and advice.⁸ She explains that the RTL M quickly gained popularity after its establishment by playing the latest music and adopting an informal, lively tone, which appeared as a new alternative to the official voices of Radio Rwanda.⁹ In Peck's film, Honoré's character is tailored to echo the RTL M voices on air – he is jovial, successful and famous.

The film's portrayal of the legal debates on hate speech and its role in the genocide shares key concerns with the ICTR case of *Nahimana et al.* – dubbed as the 'media case' – in which three accused media leaders Jean-Bosco Barayagwiza, Ferdinand Nahimana and Hassan Ngeze were charged for their involvement in enabling the production and circulation of hate speech in *Kangura* newspaper or

5 The term 'viewer' is used in this article to denote an imagined audience member whose response to the film is guided by the aesthetic and narrative techniques used by the director.

6 Cynthia E. Cohen, ed., 'Special Issue: Creative Approaches to Transitional Justice: Contributions of Arts and Culture,' *International Journal of Transitional Justice* 14 (2020).

7 The term is from Angenot. Marc Angenot, 'Social Discourse Analysis: Outlines of a Research Project,' *The Yale Journal of Criticism* 17(2) (2004): 199–215, 200.

8 Alison Des Forges, 'Call to Genocide: Radio in Rwanda, 1994,' in *The Media and the Rwanda Genocide*, ed. Allan Thompson (London: Pluto Press, 2007), 41–54, 42.

9 *Ibid.*, 44.

through the RTLM programmes.¹⁰ Since the role of the hate media is prominently present in the discourse – media, political and scholarly – on the genocide in Rwanda, analysing the *Nahimana et al.* case here allows me to unpack a significant source of this discourse in detail.¹¹ Although the accused were sentenced to 30–35 years of imprisonment, the film and legal case critically examine whether language can be seen as a weapon and the media as a tool for incitement to genocide.¹² The two narratives also draw attention to the question of whether a person can be guilty for violence they did not personally commit. While any connection between this ICTR case and Peck’s film remains unconfirmed, *Sometimes in April* includes a section of witness testimony from case *Prosecutor v. Akayesu* almost unaltered.¹³ The analysis of points of connection and departure in Peck’s film and *Nahimana et al.* builds upon shared questions: Who is guilty and what counts as a crime? What kind of impact does the ICTR have? Whose interests are served by the institution? The legal case and film are brought together in this article as components of the global social discourse on post-genocide justice in Rwanda. The *Nahimana et al.* case and *Sometimes in April* thus provide a unique pairing grounded in their shared concerns and role in the discourse.

Analysing the legal and creative primary sources, this article offers new insights on the ways in which Rwanda is narrated to the outside audiences. Although the field of Rwanda studies is infrequently named, its emergence has been identified by scholars such as Mahmood Mamdani and Jonathan Fisher.¹⁴ There is an ever-growing body of scholarship that originates from a number of disciplines, such as law, politics, literature, oral history, psychology and economics, but shares a focus on the 1994 genocide or its aftermath. This range enables cross- and multidisciplinary dialogue, which also takes place in this article through the inclusion of a variety of secondary sources. Complementing the seminal works by Western scholars, including those by Alison Des Forges and Scott Straus, some of whom write for Western audiences to inform and advocate, current debates have come to include work of Rwandan

10 Ngeze was charged on five counts: 1) Article 2(3) (b); 2) Article 2(3) (a); 3) Article 2(3) (e); 4) Article 3(b); and 5) Article 3(h). *Nahimana* was charged on seven counts: 1) Article 2(3) (b); 2) Article 2(3) (a); 3) Article 2(3) (c); 4) Article 2(3) (e); 5) Article 3(h); 6) Article 3(b); and 7) Article 3(a). Barayagwiza was charged on nine counts: 1) Article 2(3) (b); 2) Article 2(3) (a); 3) Article 2(3) (e); 4) Article 2(3) (c); 5) Article 3(b); 6) Article 3(a); 7) Article 3(h); 8) Article 4(e); and 9) Article 4(f). For the indictments: *Prosecutor v. Nahimana et al.*, 10 November 1999 (Amended Indictment: Ngeze); *Prosecutor v. Nahimana et al.*, 15 November 1999 (Amended Indictment: *Nahimana*); *Prosecutor v. Nahimana et al.*, 14 April 2000 (Amended Indictment: Barayagwiza).

11 Amanda Grzyb, ‘Debate Continues About the Media’s Role in Driving Rwanda’s Genocide,’ *The Conversation*, 1 April 2019, <https://theconversation.com/debate-continues-about-the-medias-role-in-driving-rwandas-genocide-114512> (accessed 15 November 2020); Allan Thompson, ed., *The Media and the Rwanda Genocide* (London: Pluto Press, 2007).

12 *Prosecutor v. Nahimana et al.*, 28 November 2007, 345–346 (The Appeals Judgement).

13 Witness G is mentioned in the credits, referring to *Prosecutor v. Akayesu*, ICTR-96-4. See ‘Audio Commentary with Writer/Director Raoul Peck, Conducted by Elvis Mitchell,’ *Sometimes in April*, dir. by Raoul Peck (HBO, 2005) [on DVD].

14 Mamdani and Fisher use the term ‘Rwanda studies’ to convey its nature as an entity of scholarship. Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton: Princeton University Press, 2001), 41; Jonathan Fisher, ‘Writing About Rwanda Since the Genocide: Knowledge, Power and “Truth”,’ *Journal of Intervention and Statebuilding* 9 (2015): 134–145, 135, 138–139.

scholars, such as Olivia Rutazibwa, Jean-Damascène Gasanabo and Felix Ndahinda.¹⁵ The dynamics between Rwandan and international discourse on Rwanda and scholarship are interwoven with complex questions of who produces knowledge, for whom and whose voice is centred or privileged.

Arguing that interdisciplinary research across legal and creative narratives can help us think through post-genocide justice holistically and understand how it is communicated, I examine how Peck's film unearths ambiguities. After discussing the chosen approach on law and film, this article analyses Peck's *Sometimes in April* and the *Nahimana et al.* case through close textual analysis which is a method of investigating the internal workings of a text and the impact of narrative style. Structured in three sections, the article brings together three perspectives on post-genocide justice: legal, personal and political. The first section questions who is guilty and what criminal responsibility consists of, paying particular attention to some courtroom scenes in the film through a legal analysis. The second discusses the impact of the justice processes on Rwandan characters and the ways in which they relate to these mechanisms. The final section addresses the international political context of post-genocide justice at the ICTR, asking whose interests the institution serves or is perceived to serve. By foregrounding the changing relationship between law and creative work, this article suggests that Peck's film, read together with the *Nahimana et al.* case, brings forth uncertainties and ambiguities which are part of different discourses but often addressed separately in transitional justice scholarship or overlooked in law and humanities scholarship.

NAVIGATING LAW AND LITERATURE

This article places legal and creative narratives side by side as equally valuable but simply different. The film and legal record differ in their genre, style, primary target audience, process of narrative construction and in questions surrounding authorship and ownership. The complex relationship between the two narrative forms changes according to specific research questions, as will be seen in this article. This discussion builds on the work of Holocaust scholars, such as Shoshana Felman who examines the limits and opportunities of creative representations and legal processes for understanding genocide.¹⁶ Holocaust scholarship on the ethics of (aesthetic) representation, its limits but also inventive scope, has profoundly shaped the approaches to genocide narratives.¹⁷ Despite the limits of representation of overwhelming violence,

15 For example, see Alison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda* (New York: Human Rights Watch, 1999); Scott Straus, *The Order of Genocide: Race, Power, and War in Rwanda* (Ithaca: Cornell University Press, 2006); Olivia Umurerwa Rutazibwa, 'Studying Agaciro: Moving Beyond Wilsonian Interventionist Knowledge Production on Rwanda,' *Journal of Intervention and Statebuilding* 8(4) (2014): 291–302; Jean-Damascène Gasanabo, 'Peace in Rwanda: Balancing the ICTR and "Gacaca" in Postgenocide Peacebuilding,' in *The Palgrave Handbook of Global Approaches to Peace*, ed. Aigul Kulnazarova and Vesselin Popovski (London: Palgrave Macmillan, 2019), 173–191; Felix Ndahinda, *Indigeness in Africa: A Contested Legal Framework for Empowerment of 'Marginalized' Communities* (The Hague: T.M.C. Asser Press, 2011).

16 Shoshana Felman, *The Juridical Unconscious: Trials and Traumas in the Twentieth Century* (Cambridge: Harvard University Press, 2002).

17 See for example Michael Rothberg, *Traumatic Realism: The Demands of Holocaust Representation* (London: University of Minnesota Press, 2000); R. Clifton Spargo and Robert M. Ehrenreich, eds., *After Representation? The Holocaust, Literature, and Culture* (New Brunswick: Rutgers University Press, 2010).

legal and creative narratives engage audiences in seeking to understand genocide. The two narrative forms can also question and complement one another when no hierarchy is created between them through research design.¹⁸

Scholarship on law and literature that addresses the relationship between the disciplines can roughly be divided into two categories of 'law as literature' and 'law in literature,' which assign one as the object of research and the other as a methodology.¹⁹ This categorization risks suggesting two opposite hierarchies between the disciplines: either law appears to need the 'humanistic, ethically minded' focus of literature or literature the 'real-world' grounding by law.²⁰ For example, aligning more closely with the law in literature strand of scholarship, Michael Shapiro's *War Crimes, Atrocity and Justice* (2015) discusses justice as a legal and philosophical concept through examples from art, including literature and film. He proposes that art can help us understand justice because it can destabilize and challenge the institutionalized sense-making of law.²¹ Shapiro describes art as open-ended and reflective, positioning it in contrast to law, which creates a hierarchy between the two disciplines.²² While I agree with Shapiro's views on the critical potential of art, I disagree with his reductive characterization of law, which is in a continuous process of interpretation. Identifying some moments in which the legal narrative appears ambiguous or open-ended, this article combines the two traditional approaches of law as literature and law in literature by analysing both legal and creative material as primary sources and using both law and literature as methodology.

The traditional legal scholarship on the ICTR tends to focus on the institution's contribution to legal questions and international case law on the basis of decisions and judgements. For example, William Schabas and Payam Akhavan help us understand the ICTR as an institution and why it functioned as it did.²³ However, a small number of scholars engage with interdisciplinary methods, which also has shifted attention towards individual actors within the justice institutions.²⁴ For example, Nicola Palmer's work combines ethnographic research methods with legal expertise, and Julia Viebach has discussed testimony within and outside the courtroom.²⁵

18 Robyn Gill-Leslie observes that this hierarchy results in law being 'underinterrogated' and arts 'underutilized.' Robyn Gill-Leslie, 'The Body Inside the Art and the Law of Marikana: A Case for Corporeality,' *International Journal of Transitional Justice* 14 (2020): 102–121, 106.

19 See the first chapter for a summary of the debates: Ian Ward, *Law and Literature: Possibilities and Perspectives* (Cambridge: Cambridge University Press, 1995), 3–25.

20 Elizabeth Anker and Bernadette Meyler, 'Introduction,' in *New Directions in Law and Literature*, ed. Elizabeth Anker and Bernadette Meyler (Oxford: Oxford University Press, 2017), 1–30, 1–2.

21 Michael Shapiro, *War Crimes, Atrocity and Justice* (Cambridge: Polity Press, 2015), 1.

22 Ibid.

23 See for example William Schabas, *Genocide in International Law: The Crime of Crimes* (Cambridge: Cambridge University Press, 2009); Payam Akhavan, 'The Crime of Genocide in the ICTR Jurisprudence,' *Journal of International Criminal Justice* 3 (2005): 989–1006.

24 Legal scholarship that centres people as actors within the ICTR includes Nicola Palmer, *Courts in Conflict: Interpreting the Layers of Justice in Post-Genocide Rwanda* (Oxford: Oxford University Press, 2015); Nigel Eltringham, *Genocide Never Sleeps: Living Law at the International Criminal Tribunal for Rwanda* (Cambridge: Cambridge University Press, 2019).

25 Palmer, supra n 22; Julia Viebach, 'The Evidence of What Cannot Be Heard: Reading Trauma into and Testimony Against the Witness Stand at the International Criminal Tribunal for Rwanda,' *International Journal for Crime, Justice and Social Democracy* 6 (2017): 51–72.

These scholars reveal law as a living space of interpretation, recognizing the local and international character of the aftermath of genocide. Benefitting from these insights, I endeavour to prioritize the comments and views of individual actors in the courtroom. This focus on individual voices is also foregrounded in my analysis of Peck's film.

Creative or aesthetic works can convey, question or negotiate the complexity of human experience without claiming a total understanding of genocide. This is recognized by many cultural, literary and film studies scholars, such as Nicki Hitchcott, Zoe Norridge and Piotr Cieplak whose research on Rwanda examines a body of novels, film and photography that depicts the human experience of the genocide or its aftermath.²⁶ As Derek Attridge proposes, literature – and I suggest that this applies to other creative representations, too – is singular because it is 'a report of living through' and 'an invitation' to share.²⁷ For Attridge, the strong connection between the reader or viewer and a creative representation may not be achieved when engaging with other narrative forms. Robert Eaglestone further explains that literature can produce a powerful experience because such narratives are tied together with 'how we live, how we are with others, with ethics.'²⁸ The reader's personal involvement in creative genocide narratives can deepen their awareness of the events into a more rounded understanding of experience. The potential of creative works to influence perceptions of the audience highlights a need to examine the ways in which narratives communicate, shaping the global social discourse.

The opportunities of law and literature scholarship as separate and together remains overlooked in the current scholarship on Peck's film and the *Nahimana et al.* case. Peck's film is often discussed in comparison to the aforementioned genocide films directed by George, Caton-Jones and Hughes. For example, insightful contributions by Alexander Dauge-Roth and Rebecca Jinks, in addition to those in a collection edited by Toni Pressley-Sanon and Sophie Saint-Just, focus on the film's faithfulness to historical events and the political context of the genocide.²⁹ This article complements this scholarship by analysing closely Peck's creative choices and is unique in focusing on his audio-visual representation of post-genocide justice.³⁰ Additionally, the legal scholarship on the *Nahimana et al.* case largely pays attention to the ground-breaking focus on hate speech as public incitement to genocide,

26 For example, see Nicki Hitchcott, *Rwanda Genocide Stories: Fiction After 1994* (Liverpool: Liverpool University Press, 2015); Zoe Norridge, "'Papaoutai'? Family Memory, Parental Loss and Rwandan Artists Today,' *Memory Studies* (2019): 1–21; Piotr Cieplak, *Death, Image, Memory: The Genocide in Rwanda and Its Aftermath in Photography and Documentary Film* (London: Palgrave MacMillan, 2017).

27 Derek Attridge, *The Singularity of Literature* (London: Routledge, 2004), 3.

28 Robert Eaglestone with Jonathan Beecher Field, *Notes on Studying English: A Guide for Literature Students* (London: Routledge, 2016), 4.

29 Alexander Dauge-Roth, *Writing and Filming the Genocide of the Tutsis in Rwanda: Dismembering and Remembering Traumatic History* (Plymouth: Lexington Books, 2010); Rebecca Jinks, *Representing Genocide: The Holocaust as Paradigm* (London: Bloomsbury, 2016); Toni Pressley-Sanon and Sophie Saint-Just, eds., *Raoul Peck: Power, Politics, and the Cinematic Imagination* (London: Lexington Books, 2015).

30 Cieplak provides a close reading of Ruhorahoza's film, but not on Peck or on post-genocide justice. Piotr Cieplak, 'History, Trauma and Remembering in Kivu Ruhorahoza's Grey Matter (2011),' *Journal of African Cultural Studies* 30(2) (2018): 163–177.

including contributions from Wibke Timmermann and Richard Wilson.³¹ Besides the debate on the modes of liability, scholars have extensively examined the rights of the accused since one of them raised concerns about the fairness of the trial refusing his participation.³² Discussions on these issues are largely based on decisions and judgements rather than analysis of the everyday exchanges in the courtroom. Thus, the approach of this article, which also discusses some individual actors, will complement the existing scholarship on the *Nahimana et al.* case.

GUILT AND CRIMINAL LIABILITY

Determining guilt of an accused is at the heart of the ICTR. Resolution 955 outlines that the UN Security Council was convinced that ‘the prosecution of persons responsible’ would effectively redress violence, contributing towards the ‘national reconciliation’ and ‘the restoration and maintenance of peace.’³³ Centred around the accused, the international prosecution of crimes sought to shape post-genocide existence in Rwanda. Peck recognizes this legal emphasis on determining whether the accused is guilty in *Sometimes in April* through the portrayal of Honoré’s charges for his involvement in the RTLM propaganda. Honoré changes his pleas regarding incitement to genocide during the trial in Arusha, Tanzania. Benefitting from the legal and creative modes of analysis, this section explores ways in which the film and the *Nahimana et al.* case question the concepts of individual guilt and criminal responsibility, drawing attention to the complex relationship between the two.

In *Sometimes in April*, the scenes depicting the ICTR proceedings are not long, but they create a space of official coexistence between the two time layers of 1994 and 2004. In the first courtroom scene, Honoré expresses a wish to change his pleas from not guilty to guilty, and the prosecutor enquires why:

‘I now recognize that the radio programme I did for the RTLM were criminal and that many people were killed for it.’

‘You were not aware of what you were doing in April 1994?’

‘No, not at that time.’³⁴

In this exchange with the prosecutor, Honoré admits his guilt as a radio presenter and DJ for the RTLM but simultaneously claims moral innocence for not being aware of the impact of his radio programme that spread hate speech. The prosecutor’s facial expression remains serious and sceptical throughout this scene, expressing disbelief. Here Peck distinguishes between the admission of guilt for

31 Wibke Timmermann, ‘The Relationship Between Hate Propaganda and Incitement to Genocide: A New Trend in International Law Towards Criminalization of Hate Propaganda?’, *Leiden Journal of International Law* 18(2) (2005): 257–282; Richard Wilson, ‘Inciting Genocide with Words’, *Michigan Journal of International Law* 36(2) (2015): 277–320.

32 Contributions include Elizabeth Nahamya and Rokhayatou Diarra, ‘Disclosure of Evidence Before the International Criminal Tribunal for Rwanda’, *Criminal Law Forum* 13(3) (2002): 339–363; and Caleb Wheeler, ‘Right or Duty? Is the Accused’s Presence at Trial a Right or a Duty Under International Criminal Law?’, *Criminal Law Forum* 28 (2017): 99–127.

33 UN Security Council, Resolution 955, 3453rd Sess, UN Dec S/RES/955 (8 November 1994), 1–2.

34 *Sometimes in April*, dir. Raoul Peck (HBO Films, 2005) [on DVD].

action and for moral responsibility, drawing the audience's attention to the separation of the two.

The scene foregrounds the dialogue between the prosecutor and Honoré. The camera work and soundtrack serve to create an impression of a real courtroom; besides the dialogue, the soundtrack only includes some muttering, which guides the viewer to focus on what the characters say. The scene opens with a close-up of a television screen that shows Honoré in the courtroom, after which the camera is situated briefly among the general public, who follow the proceedings in a public gallery behind a glass wall. These camera angles produce a sense that the viewer is present at the tribunal hearing but at a distance from Honoré. The following part of the scene includes a number of short shots of, for example, television and computer screens, the interpreter and the judge. This allows the viewer to access the viewpoints of multiple actors in the courtroom. However, the scene repeatedly returns to reverse angle shots of Honoré and the prosecutor, which creates visual cohesion and further highlights the significance of their dialogue. The reverse angle shots also imply the difference between the prosecutor and Honoré's views on his guilt, introducing the viewer to the questions of who is guilty and how guilt is determined. While not all shots are from the court audience's viewpoint, the shifts in framing and objects of attention seek to mimic a human gaze, encouraging the viewer to become part of the scene and to ponder over their role as spectators in the courtroom. Thus, Peck represents the tribunal realistically through the sound and visual content of the scene, using the medium of film to draw attention to different views on guilt.

The uncoupling of moral and legal guilt, as suggested by Honoré's distinction between his act and intention, has a legal basis. Since many crimes under the international criminal law require a proof of criminal intent, *mens rea*, claiming unawareness of consequences, or a mistake in assessing circumstances, poses doubt as to the accused's legal responsibility. As Cassese et al. note, the lack of *mens rea* in a situation in which the accused believed that he engaged in a lawful action may be 'a ground for excluding criminal responsibility, [but] only if it negates the mental element of the crime,' or in other words, the criminal intent.³⁵ The crime of (inciting) genocide is particularly complex to prove in this regard because the *mens rea* of the crime requires an 'intent to destroy, in whole or in part, a national, ethnical, racial or religious group.'³⁶ By denying this intent to destroy a group, the accused claims innocence in the eyes of the law and thus suggests being freed from criminal responsibility. Therefore, Honoré's guilty plea in Peck's film has a peculiar double role: the acceptance and refusal of guilt. This introduces a layer of ambiguity into the fictional ICTR proceedings, emphasizing that the justice institution is not only concerned with whether an act was committed by the accused or not but is also required to assess the accused's original intention. Here Peck's film draws attention to the ambiguous relationship between guilt and legal responsibility.

35 Antonio Cassese et al., *International Criminal Law: Cases and Commentary* (Oxford: Oxford University Press, 2011), 500.

36 UN Security Council, Resolution 955, 'The Statute of International Criminal Tribunal for Rwanda,' 3453rd Sess, UN Dec S/RES/955 (8 November 1994), Article 2.

Unlike Honoré, the three accused of the *Nahimana et al.* case pleaded not guilty, maintaining their innocence throughout the proceedings.³⁷ Their not guilty pleas indicate that the accused refuse any moral or legal guilt. Despite the difference in the accused's pleas, the film echoes the legal case in its focus on modes of criminal liability. In *Sometimes in April*, Honoré's fictional defence lawyer argues that there is no crime in the eyes of law, since no one saw his client 'butchering people.'³⁸ In contrast to this rejection of the modes of liability other than direct acts of violence, the prosecutor in the *Nahimana et al.* case Mr Muna argues that the crime of genocide is not limited to the accused with 'blood on their hands.'³⁹ Mr Muna's effort to pre-empt the defence line similar to that of the fictional defence lawyer emphasizes that the interpretation of the modes of criminal liability is contested at the ICTR. By exploring this uncertainty of what counts as a crime and who can be liable for it, Peck foregrounds in his film the idea that post-genocide justice is a complex act of negotiating different conceptions of guilt.

The ambiguity over the interpretation of the modes of criminal liability is reflected in the *Nahimana et al.* judgements. From the beginning, the prosecution sought to prove that the radio was a powerful tool of communication in Rwanda and that the accused used it 'to incite the people and to commit and to facilitate the execution of the genocide.'⁴⁰ Here Mr Muna argues that radio was used by the accused not only to incite but also to commit genocide, equating radio to a weapon and broadcasting to killing. This view prevailed in the trial chamber, and the judgement highlighted that Nahimana was 'fully aware of the power of words' and that '[w]ithout a firearm, machete or any physical weapon he caused the death of thousands of innocent civilians.'⁴¹ The ICTR chamber is confident that the prosecutor has proven Nahimana's awareness of the consequences of hate propaganda. The court's acceptance of words as a weapon appears to remove any ambiguity surrounding incitement as a mode of genocide.⁴² In this first part of the legal process, the judgement blurs the borders between incitement to violence and acts of violence.

The clear assignment of guilt for incitement and genocide was questioned in the appeals chamber. The appeals chamber overturned the judgement, acquitting Nahimana from genocide charges and only accepting his responsibility for the radio broadcasts that aired from 6 April onwards as incitement.⁴³ As Wilson observes, the appeals chamber rejected the evidence for the causal link between incitement and genocidal violence and introduced an additional requirement of near simultaneity of hate speech and violence in the case of the (inchoate) crime of incitement.⁴⁴ This appeals judgement rejects the idea of words as a weapon, which diminishes not only

37 None of the media-related trials saw an accused change their pleas. Only four accused had pleaded guilty at the ICTR by 2004. Nancy Combs, 'Procuring Guilty Pleas for International Crimes: The Limited Influence of Sentence Discounts,' *Vanderbilt Law Review* 59 (2006): 69–151, 103.

38 *Sometimes in April*.

39 *Prosecutor v. Nahimana et al.*, 23 October 2000, 111.

40 *Ibid.*, 103.

41 *Prosecutor v. Nahimana et al.*, 3 December 2003, 358–359 (Judgement).

42 For the inchoate character of genocide, see Timmermann and Wilson, *supra* n 29.

43 The appeals chamber reduced Nahimana's sentence from life imprisonment to 30 years. *Prosecutor v. Nahimana et al.*, 28 November 2007, 326–328, 345 (The Appeals Judgement).

44 Wilson, *supra* n 29 at 292.

the legal responsibility of the accused but also their moral guilt for delivering hate speech broadcasts.

Despite the appeals decision, the notion of Nahimana's guilt through words remains ambiguous due to the opposing legal opinions of the two chambers and the disagreement within the appeals chamber. Four out of five appeals judges submitted partly dissenting opinions. For example, Judge Meron from the USA, born in Poland, argues in his partly dissenting opinion that hate speech is not criminal, whilst Judge Shahabuddeen from Guyana regrets his disagreement with the chamber's rejection of hate speech before 6 April 1994.⁴⁵ The disagreement between the individual judges highlights that the legal professionals interpret the law from the perspective of the legal tradition and practices in which they have been trained. The appeals judgement with the dissenting opinions exists because there has to be a decision about a sentence at the end of a just legal proceeding. Yet, here the existence of this contested decision does not offer definitive guidance for future interpretation on incitement as a mode of genocide. Although the *Nahimana et al.* case confirms the criminal responsibility of media actors, the question of which acts count as genocide or incitement to it continues to be open to debate. This process of reinterpretation and renegotiation forms a part of law's open-endedness that is present in the legal discourse, challenging the illusion of law's rigidity.

Even though the *Nahimana et al.* appeals judgement conveys an attitude that is similar to the fictional defence attorney's in Peck's film, the film was made prior to the decision of the appeals chamber. Despite the film not being informed by this judgement, *Sometimes in April* outlines concerns over guilt and the recognizability of different modes of criminal liability, resisting the misconception of law being a stable framework that produces a clear, definitive outcome or decision. In contrast to *Nahimana et al.*, Peck chooses not to reveal how Honoré is sentenced. Peck's narrative uses the freedom offered by the narrative form of fiction film, which permits exclusion (or inclusion) of information as best serves the story the director wishes to tell. This open ending allows viewers to act as the judge, enhancing their involvement in the fictional legal process. It also encourages viewers to move beyond expecting certainty from law and towards facing the ambiguities and problems raised by the film's legal process. Thus, the legal analysis in this section complements the close reading of the film and draws attention to the ways in which Peck communicates the challenges and ambiguities in determining guilt and criminal responsibility at the ICTR. Examined carefully, the legal case and film communicate the ambiguity of the relationship between guilt and legal responsibility. However, it remains unclear to what extent this complexity is perceived by the public.

THE IMPACT OF POST-GENOCIDE JUSTICE

Whilst guilt and responsibility are central to legal processes, the value of post-genocide justice becomes more clearly visible when shifting attention to the ways in which Rwandans engage with transitional justice institutions. Research on Rwandan perceptions of post-genocide justice indicates that the Rwandan public views the ICTR

45 *Nahimana et al.*, supra n 42 at 374–376.

negatively.⁴⁶ In contrast, the scholarship on the perception of *gacaca* is more diverse, with a recent study suggesting good general satisfaction, despite other research projects offering a more mixed image or raising concerns over tensions and pressure to forgive.⁴⁷ Peck portrays different Rwandan conceptions of and relationships to post-genocide justice through the characters of Honoré, Augustin, Martine and Valentine whom Augustin meets in Arusha where she testifies as a survivor. The narrative form of the film encourages the viewer to share an experience with the characters, which extends the film's impact beyond the non-creative narratives, such as scholarship.⁴⁸ In his portrayal of 2004, Peck demonstrates that the characters' understanding of what is morally just and how a legal procedure should deliver justice, namely punishment or restoration, is reflected in their different choices. While shifting attention away from the benefits of law in understanding Peck's film, this section continues to analyse the legal and literary narratives to identify moments of uncertainty regarding the impact of post-genocide justice mechanisms.

Sometimes in April distinguishes between Honoré's experience of guilt and the ICTR process against him. Although the viewer never fully discovers what Honoré believes, an emotionally charged scene in which Augustin meets Honoré in the ICTR detention facility for the first time since the genocide offers some insight. During this scene, Honoré, who knows what happened to Augustin's wife Jeanne and witnessed the deaths of their two sons, shares the truth with Augustin. At the beginning, the viewer hears Honoré in the voiceover from the narrative present but sees the past events unfold on the screen. The way in which the scene is constructed brings the past and present together, emphasizing their coexistence in the characters' lives. Moreover, in an earlier scene in which Augustin reads a letter from Honoré, there is a suggestion that only truth can ease Honoré's guilt, which suggests that truth-sharing is partly of his initiative.⁴⁹ Thus, it emerges from Peck's film that sharing truth privately, but within and enabled by the ICTR, can offer Honoré some meaningful closure. Here Peck indicates that post-genocide justice for the accused is not limited to the judgement.

In a similar manner to Honoré, Augustin prioritizes truth. In a scene in which Martine encourages Augustin to travel to Arusha to meet Honoré for his own sake rather than Honoré's, it is implied rather than explicitly stated that Augustin struggles with the lack of knowledge about the fate of his family.⁵⁰ Because Augustin believes that Honoré was involved in their deaths, he is disinclined to meet his brother. Peck's portrayal of the brothers' fraught relationship becomes a microcosm of the

46 See for example Alison Des Forges and Timothy Longman, 'Legal Responses to Genocide in Rwanda,' in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004): 49–68, 56.

47 The authors, whose study focused on a single location, also outline a more nuanced picture regarding some specific goals: Joanna Pozen, Richard Neugebauer and Joseph Ntaganira, 'Assessing the Rwanda Experiment: Popular Perceptions of Gacaca in Its Final Phase,' *International Journal of Transitional Justice* 8 (2014): 31–52, 41. Mixed success is argued: Clark, *supra* n 3. For concerns and tensions, see Bert Ingelaere, *Inside Rwanda's Gacaca Courts: Seeking Justice After Genocide* (Madison: The University of Wisconsin Press, 2016), 82, 115.

48 Based on Attridge, *supra* n 25.

49 *Sometimes in April*.

50 *Ibid.*

post-genocide suspicions and lack of trust within families and communities. When meeting his brother, Augustin repeats to Honoré that he wants to know the truth and is now ready to hear it.⁵¹ After his discussion with Honoré, Augustin does not return to follow the court proceeding, which indicates his prioritization of truth over justice. This part of the film portrays the legal procedure's retributive function as less significant than its potential to frame a restorative process. Peck appears to represent Augustin's limited interest in the legal proceedings to acknowledge that justice as punishment might not be a priority for all Rwandans. The film's emphasis on the role of truth questions the centrality of punishment in the global social discourse on the ICTR.

Unlike in Peck's film, in which the legal parties' views remain unvoiced, the prosecution in the *Nahimana et al.* case outline their idea of the value of the trial in the opening speech. Highlighting that the *Nahimana et al.* case will be 'a landmark precedent in the history of international criminal law,' the speech by Mr Muna only focuses on the contribution of the case to international criminal case law, disregarding its meaning for Rwandans.⁵² Mr Muna's concern with the tribunal's value to the case law aligns with Nicola Palmer's research findings. Her research on the ICTR, Rwandan national courts and *gacaca* community courts shows that the actors within these institutions had different ideas of the role of their institution and that of others.⁵³ According to Palmer, the ICTR staff were principally 'concerned with the development of the international criminal case law.'⁵⁴ Encapsulating a prominent view within the ICTR, Mr Muna's comments draw attention to the contrast between the ICTR focus on the international law and Peck's focus on ways in which individual characters seek to address their post-genocide needs. The two narrative forms together draw attention to the potential challenges of different priorities of the ICTR and Rwandans and demonstrate that this divergence is not communicated within a single component of the global social discourse.

In addition to Honoré and Augustin's encounter at the ICTR, Peck's film includes narratives about two women's involvement in different post-genocide justice procedures. These women's experiences expand upon the film's portrayal of Augustin's quest for closure. In Arusha, Augustin speaks with a woman called Valentine through the wall of his hotel room and on the following day attends a hearing in which she testifies about being raped.⁵⁵ The character's description of her repeated rapes in a faltering voice is harrowing, and close-ups that show her tears and struggle to recount the events to the tribunal and viewer increase the emotional impact of the scene. The camera work also shows how the legal professionals listen to Valentine's testimony; their facial expressions are serious, focused and compassionate. When a judge asks her why she decided to come to Arusha, Valentine responds that she felt 'responsible to testify' about the accused's 'betrayal of the people entrusted to him.'⁵⁶

51 Ibid.

52 *Nahimana et al.*, supra n 38 at 88.

53 Palmer, supra n 22 at 10.

54 Ibid.

55 According to Peck's comments in 'Audio Commentary with Writer/Director Raoul Peck,' Valentine's narrative comes from witness G who testified in *Prosecutor v. Akayesu. Sometimes in April*.

56 *Sometimes in April*.

Even though this response does not help the viewer identify the source of Valentine's feeling of duty, a later scene shows her lovingly taking care of her children, which indirectly suggests that she is more content after her testimony than before it. Peck's portrayal of Valentine offers the viewer an access to another individual character who engages with the ICTR in their chosen capacity and for their own reasons.

Whereas Valentine testifies at the ICTR, Martine witnesses at a *gacaca* community court meeting. Unlike with Valentine's testimony, the scene is cut immediately after Martine declares at a *gacaca* hearing that she recognizes the accused and identifies herself as a survivor of the massacre that took place at the Sainte Marie school, and in which Augustin's daughter Anne-Marie was wounded and later died due to her injuries.⁵⁷ Martine's story of surviving when most of her students died has already been portrayed in a long flashback, and thus the absence of her testimony in this scene serves the narrative arch of the film well. However, cutting her testimony before it begins means Martine's point of view is only portrayed through a camera observing and following her rather than through a narrative controlled and constructed by the character. Alternatively, leaving Martine's testimony unspoken could draw attention to countless *gacaca* testimonies which remain unheard outside the local context.

Despite the abrupt end of Peck's portrayal of *gacaca* testimony, the local justice mechanism is constructed in a positive light through the setting. The scenes from Martine's point of view highlight the accessibility of *gacaca* by introducing it with a pan of a calm, open landscape. The local *gacaca* audience is depicted sitting informally on grass, which draws attention to its simplicity and immediacy.⁵⁸ The setting is visually distinct from the ICTR scenes, in which the legal professionals in their black robes sit in a windowless room full of desks, chairs, computer screens and headphones. In spite of the visual contrast between the openness of the outside space and borders created by furniture and communication equipment, Peck does not attach value judgements to the women's testimonies or comment on the legitimacy of the institutions. These scenes simply speak for the coexistence of the two justice institutions, since they reach different individuals, such as Valentine and Martine. However, this focus on the ICTR and *gacaca* overlooks the role of the national courts in Rwanda which began their work in 1996, trying thousands of cases annually by the early 2000s.⁵⁹ Peck reinforces here the perception of the binary opposition between the ICTR and *gacaca* through the exclusion of national courts from his portrayal, communicating a limited and simplified view of post-genocide justice in Rwanda.

57 Ibid. This scene reminds the viewer of an internationally well-known attack on 18 March 1997 in Nyange Secondary School. The attackers were reported to be Hutu from the refugee camps in Zaire, and they demanded pupils to separate according to their ethnicity. See The Associated Press, '17 Schoolgirls Die in Rwanda Attack,' *New York Times*, 30 April 1997, <https://www.nytimes.com/1997/04/30/world/17-schoolgirls-die-in-rwanda-attack.html> (accessed 10 March 2019); '20 Years Later, Nyange School Heroes Celebrated,' *The New Times*, 20 March 2017, <https://www.newtimes.co.rw/section/read/209205> (accessed 10 March 2019).

58 *Sometimes in April*.

59 Many concerns have been presented about the early years. Nicholas Jones, *The Courts of Genocide: Politics and the Rule of Law in Rwanda and Arusha* (Abingdon: Routledge, 2009), 87–88.

The form of film lends itself easily to telling a multi-perspectival narrative, with the viewer visually identifying changes of a narrator or focal point. This emphasis on the individuals' engagement with different justice institutions confronts the viewer with an idea that the value of different justice proceedings is not fixed and can move beyond the realm of retribution through an individual's valorisation of truth or testimony. Thus, analysing Peck's film helps draw attention to the challenge of defining the impact of post-genocide justice mechanisms. Despite the limited scope of the legal narrative to unpack individual relationships, the questions regarding the impact of the institution on post-genocide Rwanda are part of the legal discourse. Analysing the two narratives foregrounds their different content regarding the value of post-genocide justice, which demonstrates that separate and diverse understandings are embedded in the global social discourse and navigated by the public.

THE POLITICS OF THE ICTR

In addition to Rwandan perspectives on post-genocide justice, Peck's film extensively explores the role of the West, particularly the US and France, first in failing to curb the genocide and then in trying to manage its aftermath. Contributing to scholarly attention, Linda Melvern's seminal book *A People Betrayed* and more recently Hazel Cameron's work have examined and condemned the West's ignorance, inaction and knowing support for the genocidal Hutu government.⁶⁰ Despite the researchers' views, politicians continue to struggle with the memory of the genocide. Although President Clinton apologized for the US passivity in 1998 and France launched the latest investigation into their role in 2019, the subject of the countries' involvement in the 1994 genocide remains politically controversial.⁶¹ The film's sustained but highly critical focus on the Western actors during the genocide, as portrayed in the scenes that feature the fictionalized US Department of State, raises questions and doubts of their aims and objectives in the aftermath of genocide. However, Peck's preoccupation with the West excludes nuanced engagement with who is included within this label and what was the role of countries outside the West. By examining the depiction of the politics in Peck's film alongside the views of the accused in the *Nahimana et al.* case, I foreground in this section the problematic nature of the dialogue between politics and post-genocide justice.

Discussion on the context of the ICTR opens in *Sometimes in April* with a scene in which Augustin and his new partner Martine talk on the phone about Augustin's experience of the tribunal in Arusha. First, Augustin points out the absurdity of gathering all genocide leaders in Arusha and providing them with good meals and medical treatment, including the 'AZT medicine, while rape victims are dying of AIDS.'⁶²

60 Linda Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (London: Zed Books, 2000); Hazel Cameron, 'The French Connection: Complicity in the 1994 Genocide in Rwanda,' *African Security* 8(2) (2015): 96–119.

61 President Macron appointed a committee to investigate the French involvement in the genocide in April 2019. Gaïdz Minassian and David Servenay, 'Vincent Duclert: La commission sur le Rwanda aura un pouvoir d'investigation dans toutes les archives françaises,' *Le Monde*, 5 April 2019, https://www.lemonde.fr/idees/article/2019/04/05/vincent-duclert-la-commission-sur-le-rwanda-aura-un-pouvoir-d-investigation-dans-toutes-les-archives-francaises_5446212_3232.html?xtmc=ruanda&xtrcr=14 (accessed 29 April 2019).

62 *Sometimes in April*.

Here Peck notes the inequality between perpetrators who receive medication to treat HIV and their victims who have no access to such medication. When Martine highlights that the tribunal is not perfect but is needed to allow people to move on, Augustin disagrees by suggesting that the tribunal is 'a show' and a 'way for everybody to wash their hands, so nobody has to feel bad, and we can pretend that there was justice.'⁶³ During the dialogue between Augustin and Martine, the cross-cutting of mostly medium close-ups allows this scene to show the viewer what remains inaccessible to the characters: the facial expressions, gestures and movement. This privileges the viewer in observing the emotions expressed through nonverbal communication. Augustin's observation regarding the inequality of access to medical care serves to point out that the accused are at the centre of attention at the ICTR, since without them the legal process could not exist. He also suggests that the tribunal is funded for the illusion of justice, which allows the international and particularly Western actors to absolve themselves of the guilt of inaction or ignorance. Thus, this scene portrays the characters' perception of post-genocide justice serving the outside interests. In implicitly contrasting the West and Rwanda in this scene, Peck simplifies different international actors' roles in action or inaction.

Whereas Peck's film examines the characters' perceptions of the relationship between justice and politics, there are moments in the *Nahimana et al.* case when the political enters the courtroom. To explain his refusal to attend the court proceedings, one of the accused, Mr Barayagwiza, suggests through his defence counsel that the tribunal was not independent of the bias of the new Rwandan government. Following the prosecutor's opening address, on the first day of the case, defence attorney Ms Marchessault tells the court that her 'client is saying that it is impossible for him to go, to have a fair trial before this tribunal which in a way is directed or guided by the government of Kigali.'⁶⁴ This statement reveals that the accused assumes that the trial is a show trial run by the Rwandan government for political purposes. This comment, which appears unfounded, challenges the involvement of Rwanda in drafting the ICTR statute and implies that the courtroom actions lead towards an agreed outcome. Barayagwiza's beliefs foreground the international politics in discussion, obscuring the centrality of the question of whether the accused is guilty of genocide. Here the ambiguity of law is used for a political end. Although Peck's film and the ICTR proceedings present starkly different claims, the two narratives include a recognition that post-genocide justice can be perceived to be affected by international political interests.

In addition to portraying Rwandan perceptions, Peck's film also narrates the actions and reactions of some Western actors, such as politicians, civil servants, military personnel and the media. For example, a long scene depicting late July 1994 begins with a voiceover that uses different news broadcasts of the time, one of which notes that the Western support in Rwanda has been 'slow to non-existent.'⁶⁵ This scene is one of the occasions when Peck utilizes archival material in his film. This blurs the line between fact and fiction and ties the film's concerns firmly together

63 Ibid.

64 *Nahimana et al.*, supra n 38 at 146.

65 *Sometimes in April*.

with the aftermath of the 1994 genocide. The voiceover is combined with an unexplained scene in which unidentified white military personnel evacuate a few Rwandan men with a helicopter. The narrative in the soundtrack continues when a jump cut introduces a new frame with numerous dead bodies in civilian clothes, implying a connection between the Western inaction and the depicted corpses. Immediately afterwards, the scene of evacuation is explained by another scene, in which the US Bureau of African Affairs holds a meeting.⁶⁶ Fictionalized Prudence Bushnell, Deputy Assistant Secretary, hears the character called Lionel Quaid state that the UN is in full damage control mode and that the French are trying to save who they can from the Hutu government that administered the genocide. Here viewers are invited to identify that they have already borne witness to the French saving some Hutu government officials. Moreover, the word choice ‘damage control’ implies an attempt to hide prior neglect and portrays the UN awareness of their failures. Building upon the US inaction, this scene specifically implicates France, which is still today in the process of coming to terms with its role in the genocide.⁶⁷ These moments of revealing the failures of the Western countries amount to sharp criticism in Peck’s film, establishing that their guilt is undeniable and unavoidable. By portraying the events of late July 1994, Peck demonstrates that controlling the discourse and directing attention away from their inaction serves the interests of some Western countries. This invites public discussion on the question of how and to what extent the ICTR serves Western, or more broadly international, politics.

As part of his criticism against the West, Peck appears to imply that some Western or other international actors should have faced legal consequences. *Sometimes in April* ends with a condemning statement in white captions on a black background: ‘Of those who watched/ the genocide unfold,/ and did nothing to stop it,/ no one has been charged.’⁶⁸ This statement, which is accompanied with soft and mournful but untranslated singing in Kinyarwanda, is particularly striking because of the chosen colours and the placement of the text in short lines, which emphasizes the weight of each word. In suggesting that some international actors should have been charged, these captions draw attention to the limits of post-genocide justice to address inaction. The ending of the film thus leaves the viewer to consider the ambiguous relationship between the ICTR and international politics as separate but entwined.

The closing captions that include the word choice ‘those’ lead the viewer to also consider whether Augustin is the intended target of the comment. An earlier scene narrates how Augustin is stopped at a roadblock with his friend Xavier and some other men. After checking their identity cards, the Interahamwe, Hutu militia, order Augustin to kill kneeling Xavier with a machete, but he hesitates.⁶⁹ One of the Interahamwe men shoots Xavier. This scene implicates Augustin in Xavier’s death, since he wanted to leave their hiding place and stands still when his friend is killed. Augustin as a Hutu inhabits a complex position in the film, not neatly fitting into the

66 Ibid.

67 Andrew Wallis, *Silent Accomplice: The Untold Story of France’s Role in the Rwandan Genocide* (London: I.B. Tauris, 2006); Cameron, *supra* n 59.

68 *Sometimes in April*.

69 Ibid.

category of either witness or survivor.⁷⁰ His position raises questions about the source of his feelings of guilt in the aftermath of genocide and offers another reading of the closing statement. Peck's use of the film medium allows him to construct the end without a definitive interpretation. This alternative reading of the end returns the film's focus to the human experience of the genocide and its aftermath. The opportunity of the dual reading also asks what is the relationship between individual Rwandans and, expanding beyond Peck's representation, other states or large international organizations in the aftermath of genocide. The question which reverberates across the film and the ICTR discourse is: Who has power and whose experience matters?

CONCLUSION

Through an exploration of guilt and responsibility, the impact of the justice institutions and the political context of the ICTR, this article has demonstrated that Peck's *Sometimes in April* foregrounds ambiguities and complex questions regarding post-genocide justice. These ambiguities draw attention to the ways in which connected concerns are present in the everyday discussions of the *Nahimana et al.* case. Hence, the reading of the legal and creative narratives indicates that film can productively highlight the challenges of post-genocide justice, communicating them to the large audience. It also demonstrates that the legal narratives are not straightforward or detached from people and the context of practice. The question of who counts as guilty in the eyes of the law – because of *mens rea* or the mode of involvement – emerges through legal analysis of the film but remains undetermined with the open ending, which destabilizes the viewer's understanding of retributive justice. The response of the *Nahimana et al.* case to the same question also appears unstable due to the internal disagreements and the struggle to negotiate a unanimous response. In communicating these ambiguities to the outside audiences, the legal and creative narratives outline a need for a wider, interdisciplinary discussion about justice and guilt, particularly on the questions: To what extent are the ambiguities and divergencies of interpretation an acceptable part of the legal processes? How could the role of legal interpretation be made more transparent to the general public?

In *Sometimes in April*, Peck creates an equivocal moment through his depiction of the meaning of the ICTR for different Rwandans. Peck demonstrates that the difficulty of defining the impact of the ICTR is entwined with the differences in individuals' understanding of the institution and its purpose. Through centralizing truth in the characters' experiences, the film suggests that even more attention should be paid to the ways in which truth can gain different value within the ICTR. Since the views on post-genocide justice differ between the film and the *Nahimana et al.* case, the two narrative forms complement one another in this analysis but the ways in which they interact within the global social discourse remains unclear. Bringing individual views on post-genocide justice within the ICTR and in Rwanda together opens a new space for analysing to what extent such divergence is perceived to influence or challenge justice proceedings.

70 As a Hutu, Augustin appears as a witness rather than a survivor but his name is among traitors to be killed. He also self-defines as a survivor when discussing with Valentine.

Finally, the contextualization of the ICTR within the contemporary international politics supports Peck's criticism of the West and seeks to raise the question of whose interests are served by the ICTR. Peck's portrayal of the characters' perception that the ICTR benefits the West more than Rwandans and the West's acknowledgement of the need for damage control measures highlights the complex relationship between international politics and post-genocide justice. In the *Nahimana et al.* case, the accused refers to this relationship, making politics visible in the courtroom, where it rarely enters directly. The relationship between the political actors and the ICTR remains ambiguous in these narratives as well as outside them. The obscurity of this relationship, communicated by the narratives to their audiences, opens the ICTR up to potentially unfounded criticism and hinders the debate based on substantiated arguments. Thus, increased transparency would benefit the public discourse surrounding the ICTR in Rwanda and internationally.

In *Sometimes in April*, Peck uses the audio-visual form of film to construct an accessible but multi-layered narrative which, despite its limitations, stands apart from many other representations of the genocide targeted at Western audiences. This article has argued that research on transitional justice and art should not be limited to participatory arts because the arts of mass consumption can through their narrative form engage the audience in the ideas of post-genocide justice, shaping the global social discourse and outside perceptions. Analysing *Nahimana et al.* together with Peck's film demonstrates that the shared questions about post-genocide justice reverberate within the ICTR but are approached from different perspectives and priorities. The two narratives offer together an insight into how the ambiguities of post-genocide justice are narrated as part of the global social discourse. Besides expanding existing Rwanda scholarship on the outside perceptions, understanding the discourse can help researchers enter into dialogue with the public. In this article, the detailed and rounded engagement with the legal and creative narrative sites offers a space to reflect on questions and responses derived from different disciplines and approaches. Interdisciplinary research offers thus opportunities for holistic understanding – in this case, of post-genocide justice in Rwanda – which can also inspire new questions and future research that derives from collation of scholarly debates and discourses that are rarely otherwise set side by side.